

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY SCOTT SARGENT,

Petitioner,

v.

I.D. CLAY, Warden

Respondent.

2:07-cv-02001-NRS

ORDER

Petitioner Sargent is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Sargent challenges the decision by the California Board of Parole (CPB) finding him unsuitable for parole. After Sargent's petition, the Ninth Circuit Court of Appeals granted rehearing en banc in *Hayward v. Marshall*, 512 F.3d 536 (9th Cir. 2008), *reh'g en banc granted*, 527 F.3d 797 (9th Cir. 2008), which may directly impact Sargent's petition. Accordingly, on January 6, 2010, this court ordered the parties to show cause why this action should not be administratively stayed pending the Ninth Circuit's resolution of *Hayward*.

Respondent filed his response on January 7, 2010, and Petitioner filed his response on January 20, 2010. Respondent agrees that the matter should be stayed pending the outcome of *Hayward*. Petitioner, however, argues that, notwithstanding the pendency of *Hayward*, this court should act on his petition, because the primary issue is the plea bargain that he entered into.

However, the CPB has found Petitioner unsuitable for parole and the issues raised in his petition involve the sufficiency of evidence to support the state's denial of his parole, notwithstanding the plea bargain. The decision in *Hayward* could directly impact his claim. Accordingly, IT IS HEREBY ORDERED that this action be administratively stayed pending the Ninth Circuit's decision in *Hayward v. Marshall*, 512 F.3d 536 (9th Cir. 2008).

DATED: **February 8, 2010**

A handwritten signature in black ink, appearing to read "N. Randy Smith". The signature is written in a cursive, flowing style.

Honorable N. Randy Smith
Ninth Circuit Court of Appeals Judge